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OFFICE OF PETITIONS

In re Application of :
Julia et al. : DECISION ON APPLICATION
Application No. 09/918,512 : FOR
Filed: August 1, 2001 : PATENT TERM ADJUSTMENT
Attorney Docket No. 06652.0462 :
:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed September 20, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to eight (8) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is eight (8) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 21, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. The period of adjustment of 192 days for Office delay was reduced by 234 days for applicant delay. On September 20, 2004, applicants timely¹ submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of

¹ PALM records indicate that the Issue Fee was also received in the Office on September 20, 2004.

the mailing of the Notice of Allowance is 8 days. Applicants dispute the reduction of 50 days attributed to a delay in responding to the Notice to File Missing Parts of Application mailed September 6, 2001. Applicants state that their response was received in the Office on November 29, 2001, and accordingly, there was no applicant delay. In support thereof, applicants submit a copy of their date-stamped and itemized postcard, acknowledging receipt by the Office of their response on November 29, 2001.

Applicants state that the patent application is not subject to a terminal disclaimer.

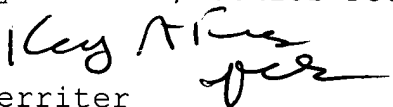
Applicants are correct. Their response to the Notice to File Missing Parts of Application mailed September 6, 2001, is of record in the application with a date of receipt by the Office of November 29, 2001. Furthermore, the response included a complete reply to the Notice. Thus, the Office should not have assessed applicant a delay of 50 days. The response was filed within the three-month period under 37 CFR 1.704(b). Applicants did not fail to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is eight (8) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.


Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen